

III. MEDIATION

III.06 CLOSING OF MEETINGS

**Policy.** This policy shall apply to the closing of all negotiations and mediation sessions conducted by the bureau, as well as to meetings of the governing body of public sector employers which are closed by the bureau.

Minnesota Statutes section 179A.14 authorizes the commissioner to close negotiations and mediation sessions between public employers or their exclusive representatives. The Minnesota Supreme Court, in MEA, et al v. Kenneth Bennett, et al, 321 N.W. 2d 395, (Minn. 1982) commented that public interest is served by conducting negotiation strategy sessions in private. The Court also held that a mediator's authority to close a meeting extends to meetings held without the mediator being present and that such closed meetings of a public governing body are not in violation of the Open Meeting Law. (See Minn. Stat. § 471.705, subd. 1a, and Minnesota Rules)

It is the policy of the bureau that all mediation conferences be closed to the public and the press. This is based on the determination that public or media participation in the mediation process tends to have an adverse impact on the mediation process and the settlement of a collective bargaining dispute.

**Delegation of Authority.** BMS staff mediators are hereby delegated the authority to close negotiations and mediation sessions to the public whenever such action is deemed to be in the best interests of the resolution of disputes.

In all cases, no meeting will be closed unless the bureau has received a timely and valid petition for mediation filed by one or more parties to the dispute or question.

**Mediator Physically Present at Meeting.** In all situations where the mediator is physically present, a mediation session or a meeting of a public governing body may be closed prior to its start or at any point thereafter, whether or not requested by a party, for purposes related to the resolution of the labor dispute.

**Mediator Not Physically Present at Meeting of a Governing Body.**

In the event the mediator determines that a closed meeting of a public governing body will aid in the resolution of a dispute, but the mediator cannot be physically present for such closed meeting, and a timely and valid notice of intent to strike has been filed, the commissioner or his or her designee may authorize such closed meeting of the governing body upon at least 24 hours advance written notice to the governing body and exclusive representative.

Written notice by the commissioner or his or her designee of a closed meeting under these circumstances shall include the date, time and place of the closed meeting and limit the purpose of the meeting to a review and discussion of the status of negotiations and the employer's positions with respect thereto. Where necessary, such written notice may be transmitted by electronic means as well as by U.S. Mail.

**Recording of Meetings of Governing Bodies.** If a mediator closes a meeting of a governing body, the governing body is obligated to tape record the meeting, pursuant to Minn. Stat. § 471.705. subd. 1a.

When a mediator closes a mediation meeting where members of a governing body are present, Minn. R. 5510.2810, subp. 5a prohibits the use of recording devices, stenographic records or other recording methods.

8/31/81; 1/1/82; 8/23/82; 5/1/83; 12/19/89; 2/26/97; 3/2/98; 5/15/98; 5/1/01; 11/1/04